

case, as related to the one-half of the lot so claimed by him should be stricken out, &c.

*29th November, 1831.*—BLAND, *Chancellor.*—*Ordered*, that the matter of the foregoing petition stand over until the case shall have been revived and brought before the court for a final hearing.

After which the plaintiff, by his petition, stated, that the controversy in relation to the ten acre lot was then ready for final hearing, and the parties interested all before the court; that the controversy in relation to the lot on Alice-Anna street was not then ready for final hearing, inasmuch as one of the parties in interest was not before the court. And as the controversy in relation to the ten acre lot may be finally determined without injury or inconvenience, leaving the property on Alice-Anna street for future adjudication. And as the matters now remaining in dispute, and the difficulties in the way of a final decision, in relation to the Alice-Anna street property, present no obstacles to a final decision in relation to the ten acre lot; and inasmuch as the parties are in needy circumstances; and also as the property cannot be improved until the right to it is finally settled; the petitioner prayed, that the court would proceed to a final decision upon the questions in regard to the ten acre lot, retaining for future adjudication so much of the controversy as relates to the property on Alice-Anna street.

*17th February, 1832.*—BLAND, *Chancellor.*—Where there are a plurality of defendants, and one of them dies, who had an interest which does not devolve upon the surviving parties, but which might, in all respects, have been separated by that final decree which the court would have passed; and which interest of the deceased is of such a nature as not necessarily to involve an expression of the judgment of the court upon that which does obviously constitute a component part of the title relied upon by the surviving defendants, it may, in some instances, be expedient and proper to pass a decree upon the matter in controversy as to the surviving defendants, and to leave the separate interest of the deceased open to be afterwards brought before the court at a more convenient season, or when required by his representatives. (†)

But here all the original defendants alike derive title under or in opposition to one and the same deed; upon the true construction

---

(†) *Bressenden v. Decrees*, 2 Ca. Cha. 197; *East India Company v. Coles*, 3 Swan. 142; *Ferrers v. Cherry*, 1 Eq. Ca. Abr. 4; *Lingan v. Henderson*, 1 Bland, 236.